

Message Text

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PAGE 01 STATE 131723

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DRAFTED BY SCA;SCS;RBOYLAN:JS

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FM SECSTATE WASHDC

TO AMCONSUL MILAN

UNCLAS STATE 131723

E.O. 11652:N/A

TAGS: CGEN: (DANENZA, VICTOR)

SUBJECT: SERVICE OF SUBPOENA

REF: MILAN 980

1. DEPARTMENT NOTES THAT CONGEN MENTIONED ARTS. 139 AND 805 OF ITALIAN CIVIL PROCEDURE CODE IN REFTTEL. PLEASE ADVISE WHETHER SERVICE WAS EFFECTED UNDER THOSE SECTIONS OF ITALIAN LAW, OR WHETHER THE APPLICABLE LAW WAS ART. 659 OF THE ITALIAN CODE OF CRIMINAL PROCEDURE (CODICE DI PROCEDURA PENALE). DEPARTMENT UNDERSTANDS LATTER TO PROVIDE THAT ORDERS ADDRESSED TO WITNESSES IN ITALY TO TESTIFY BEFORE A FOREIGN COURT MAY BE TRANSMITTED TO THE PUBLICO MINISTERIOOF THE DISTRICT IN WHICH THE WITNESS IS FOUND. IN SUCH CASES, SERVICE IS MADE PURSUANT TO ART. 175 OF THE CODE OF CRIMINAL PROCEDURE WHICH PROVIDES THAT, IF POSSIBLE, SERVICE BE MADE BY PERSONAL DELIVERY BY THE UFFICIALE GUEZIARIO, AND THAT IF PERSONAL DELIVERY IS NOT POSSIBLE, SUBSTITUTES SERVICE MAY BE MADE UNDER ART. 169 OF THE CODE OF CRIMINAL PROCEDURE.

2. IF SERVICE IN THIS CASE WAS EFFECTED PURSUANT TO ARTS. 659, 175 AND 169 OF THE CODE OF CRIMINAL PROCEDURE, PLEASE ADVISE THE DEPT., AND PLEASE FORWARD COPIES OF UNCLASSIFIED

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PAGE 02 STATE 131723

THE PERTINENT SECTIONS OF LAW TO MR. SPEISER.

3. IN ADDITION, PLEASE ADVISE WHETHER SERVICE OF
SUBPOENA IN ITALY BY CONOFF IS PROHIBITED BY POSITIVE LAW.
DEPT. OF JUSTICE, FOREIGN LITIGATION UNIT, STATES IT IS
UNABLE TO FIND A SECTION OF ITALIAN LAW WHICH WOULD SO
PROVIDE. JUSTICE IS INTERESTED BECAUSE OF THE NUMBER
OF REQUESTS FOR SERVICE OF PROCESS IN ITALY WHICH IT
RECEIVES. KISSINGER

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Message Attributes

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Disposition Event:
Disposition History: n/a
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Margaret P. Grafeld
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